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**UTAH OGM COAL PROGRAM MEETING NOTES**  
**FINAL**

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**Date:** March 22, 2007  
**Time:** 1: 30 – 3:45 p.m.  
**Location:** DNR – Salt Lake City (Room 1010)

**To:** Internal File, Emery Mine/Hidden Valley Mine, (C/015/0015,C015/0007)

**From:** Pamela Grubaugh-Littig (Purpose and Agenda Formulated by John Gefferth, Consol Energy) 

**Attendees:** Consol Energy (John Gefferth)  
Montgomery Associates (Keith Montgomery and Jody Patterson)  
SHPO (Matt Seddon)  
BLM (Jeff McKenzie, Steve Rigby and Julie Howard)  
OSM (Foster Kirby) (by conference phone)  
DOGM (Mary Ann Wright, Susan White, Joe Helfrich, Jerriann Ernsten, Pamela Grubaugh-Littig)

**Purpose:** Discuss future Archeology issues, procedures and protocol to complete archeology for existing Emery permit and future Hidden Valley permit.

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**MEETING SUMMARY:**

**The Agenda for the meeting was:**

- ❖ What is the mechanism to obtain SHPO concurrence?  
Why does DOGM wait until the 11<sup>th</sup> hour to send to SHPO?  
Under what regulation does DOGM base its need to review the archeo report?
- ❖ What is acceptable...surface disturbed areas and planned subsidence areas?  
Is the method that Montgomery used at Lila Canyon sufficient?
- ❖ How will DOGM treat identified sites (determined by SHPO, not eligible) that are within the angle of draw of planned subsidence, after subsidence?

John Gefferth outlined the proposed Hidden Valley Mine project. The major exploration is projected to be resubmitted in April 2007 and the target date for the MRP application is December 2007. BLM was invited to the meeting to understand the proposed Hidden Valley project on the fee/SITLA application (which may be submitted in December 2007). The "Walker Flat" was a lease-by-application (LBA) for the federal coal (between the Emery Deep and Hidden Valley Mine) submitted by Consol, but has since been terminated by the BLM.

There was a lot of discussion about the SHPO process. Foster Kirby (OSM Archeologist) said that the SMCRA cultural process is patterned after the 106 process. The cultural process is a 106 process for the State Program, the Division conducts a 106 activity.

Matt Seddon (SHPO) discussed the SHPO process and stated that the agency (DOGM) is the "Decider" on the effect on cultural resources. The cultural regulations are on the agency, not on the applicant. For coal mines, the Division has to make a finding on the effect on cultural resources (i.e. an "effects" determination).

There was also discussion about the proposed "LBA" and how the Section 106 process would be handled during the NEPA process. Matt stated that if "interagencies are involved", under the protocol between the BLM and the SHPO, BLM is supposed to consult with the SHPO for the interagency case.

As a final note, Foster stated that if the Division conducts the cultural (106 Process) on an area that does not include any federal coal, no tribal consultation is involved. However, if permit changes involved federal coal or federal surface, tribal consultation is required. The Division is not clear who would conduct that tribal consultation and this will need to be clarified.

#### **PROPOSED ACTION ITEMS:**

A draft summary of the outline of the Section 106 process as proposed during this meeting (NOTE: The Division will discuss this outline further and respond to all parties):

- Permit applicant provides detailed subsidence information to OGM and archeological consultant, including, but not limited to:
  - Mine plan area
  - Detailed subsidence isopachs
  - Overburden depths
  - Springs and water sources
  - Provides all of this information to overlay cultural with subsidence isopachs
- Archeological consultant informally consults with SHPO for sampling strategy planning
- Permit applicant submits two (2) copies of sampling strategy to DOGM, DOGM immediately sends one to SHPO
- DOGM and SHPO review and notify permit applicant if sampling strategy looks adequate or not
- When the field work is complete, the permit applicant submits two finalized reports in the MRP (one for SHPO and one for DOGM) of the results of the sampling. Review will be done concurrently with the MRP Review.
- Division makes an "effects determination" and requests SHPO concurrence. This determination can be made prior to DOGM final permit approval.

NOTE: This outline does not include Tribal Consultations, Programmatic Agreements, nor Memorandum of Agreements that may be required and which agency will be responsible for these activities.

**ADDITIONAL COMMENTS: (This section is intended to provide attendees the opportunity to contribute additional and significant information concerning the meeting content that may not have been mentioned during the meeting.)**

**(e-mail sent to Pam from Julie Howard on March 23, 2007)**

After leaving the meeting yesterday I thought more on the Native American consultation. It worried me that just because it wasn't a requirement for State or Private land--- we didn't need to consider Native American consultation in the process. I thought that out of courtesy it might be in UDOGM's best interests to consult with the interested Tribes that you have established to date such as the Hopi, Paiute, and Ute. I also can't understand with OSM involved why Native American consultation wouldn't be part of their operating procedure similar to Sec. 106? When we do get down the road and BLM is involved the Tribes are probably going to wonder why they weren't involved earlier. Just some thoughts.  
Thanks again, Julie

**Comments from Joe Helfrich regarding the following agenda item;**

“Why does DOGM wait until the 11<sup>th</sup> hour to send to SHPO?”

The permittee was notified in writing that a ground survey of cultural resources would be required prior to complete or full extraction as early as October of 2005 during the approval of the first north boundary addition amendment. The survey was received at the Division's Salt Lake office on February 14, 2007. The Division staff assigned to the project completed their reviews and notified the permittee on March 5, 2007 that the deficiencies noted in the survey would not preclude the request for SHPO concurrence. The deficiencies stemmed from the survey not being proof read by the permittee as acknowledged by John Gefferth during the March 5th teleconference review of the IBC deficiencies. The Division sent a written request for SHPO concurrence on March 9, 2007. Having said all that it does not appear from this comment or facts that there was an “eleventh hour “ issue as represented by Mr. Gefferth.

**Comments (J. Patterson, Montgomery Archaeological Consultants)**

As state above, the information to be provided to the arch. consultants include

- Mine plan area
- Detailed subsidence isopachs
- Overburden depths
- Springs and water sources
- Provides all of this information to overlay cultural with subsidence isopachs

In this list, the items that the arch consultant would require is the isopach map and the Mine Plan area. It is this information that will be used to design the sampling strategy. Information pertaining to existing springs and water courses is not necessary, as this information is already available from other standard

sources (e.g. 7.5' topographic maps, AGRC GIS Datasets, etc.). Depending on the sampling strategy employed (stratified, random, systematic, etc), such locations would be examined in the manner most relevant to the sample design. For example, in a stratified sample water courses would likely be one of the zones in which sampling would occur. In a random sample, there is no guarantee that any sampling would occur in such areas, though the probability that such landscape features would be selected is the same for any other area within the subsidence area. Given that modern springs and water sources and ones flowing or utilized in the past are not necessarily identical, no sampling design should specifically target only modern water sources. Instead, the sampling strategy needs to balance the known with the unknown to ensure that the sample is representative of the area that it is being used to measure.

Assuming that the overburden depths and subsidence isopachs are correlated, there is no need for the proponent to provide the archaeological consultant with this data. I am assuming that the isopach map will fully delineate the area of potential effect and not the overburden depth.